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FOR THE SECRETARY FROM AMBASSADOR CUNNINGHAM

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SUBJECT: SCENESETTER FOR THE SECRETARY'S VISIT TO ISRAEL

Classified By: Ambassador James B. Cunningham, Reason 1.4 (b) (d)

¶1. (C) SUMMARY: Your upcoming visit to the region comes during a time of transition in Israeli politics. FM Livni is casting her failure to refashion a coalition as a refusal to accept the restrictive economic and diplomatic terms demanded by the Shas Party. The Kadima Party, under her leadership, has pressed for elections as soon as possible, and February 10 is the most likely date. There is debate among Israel's preeminent politicians over the degree to which the caretaker government of PM Olmert can engage in diplomatic negotiations and other weighty political matters. The Olmert-Livni-Barak trio affirms that negotiations can (and indeed must) continue. There may be differences however over decision-making authority. Opposition figures, notably Binyamin Netanyahu, laid down markers that the government has no "moral right" to concede "precious assets of the Jewish nation." Netanyahu clarified that he would not be bound by any agreement agreed or signed by the transitional government. While Israeli law is not explicit regarding the limitations on the powers of a transitional government, the High Court of Justice and precedent has affirmed a principle that such a government should generally act with "restraint" except in the case of a "public need for action." In the coming three months the government will act to preserve the integrity of the Annapolis negotiations, which at least Livni and/or Barak would aim to pursue vigorously following elections. Livni seems to have concluded that she will not shrink in the campaign from identifying herself with the negotiations , and will take on Netanyahu over the issue. Olmert will try to re-engage his own channels with Syria, and probably with Abbas as well. But "agreement" on any results of efforts over the coming months is not likely to be in the cards until after general elections, or a referendum on any decision taken by the transitional government. END SUMMARY.

LIVNI WEARS HER ANNAPOLIS CLOAK WITH DEFIANCE

¶2. (C) FM Livni revealed her frustration with current coalition partner, Eli Yishai of the Shas Party, on October 26 when she announced that negotiations over terms of a new government had failed over disagreement on two issues: increasing family allowances and Jerusalem. Livni stated: "I was willing to pay a price for forming a government, but up until the last minute, I was not willing to mortgage the economic and political future or the hope for a different kind of politics. There are prices that can be paid, there are prices that others are willing to pay, but I am not willing to pay them at the expense of the state, at the expense of its citizens, just in order to be prime minister in a paralyzed government." The widely-reported Kadima characterization of Shas demands as "extortion" met with a harsh, public response from Shas Party leader Eli Yishai, who retorted that Livni's characterization constituted "(anti-Sephardi) racism and condescension."

¶3. (C) Livni's foreign policy advisor, Tal Becker, emphasized to us after Livni's break-up with Shas, that she is determined to continue the Annapolis process -- and

purposefully did not hide her role in the negotiations with the Palestinians during her efforts to form a viable government. He is encouraging her to resume her negotiations with Abu Alaa "no matter what Bibi throws at her" during the upcoming election campaign. For starters, it looks like Netanyahu is honing in on what he perceives as Livni's willingness to negotiate on Jerusalem. Nonetheless, recent polls indicate that Livni's stance has not harmed her position in the polls, which show her neck-in-neck with Netanyahu's Likud Party, a marked improvement from several months ago.

WHILE OLMERT REMAINS AN UNCOMFORTABLE CARETAKER

¶4. (C) On October 27, President Peres used the opening of the winter session of the Knesset -- which will only remain in session through November 10 -- to clarify that early elections are in the offing, following Livni's failure to form a government. He also used the normally ceremonial occasion to make a pitch for regional peace, notably by conveying a positive response to the 2002 Arab Peace Initiative. Peres stated in his argument for a review of that initiative that "it is fitting that we examine how we can include the whole Arab world in a comprehensive peace process that will be stronger and more credible. The price of a comprehensive agreement, in its conclusion, will not exceed the price that Israel paid or agreed to pay in negotiations with all the states individually." Egyptian Embassy contacts tell us that Peres and Mubarak discussed the Arab Initiative during Peres' October 23 visit to Cairo.

¶5. (U) PM Olmert clarified that he will remain PM until the

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formation of a new government after elections, stating to the Knesset on October 27 that "I will do so with the same sense of responsibility and prudence with which I have acted so far, and thus, the appropriate distance will be maintained between the turbulent politics which characterize the election period, and the need to address the critical matters of state." He disabused Israelis that he would act as if there were a "pre-election stalemate." Instead, Olmert stated that "Decisions will be made and the country will continue to be run." He pledged to confront the global financial crisis by taking steps to guarantee the stability and strength of the Israeli economy, to solve Israel's brewing education crisis and to work to release Gilad Shalit.

He made no mention of the Palestinian or Syrian track, although Israeli journalists considered close to Olmert reported October 31 that Olmert has sent a message to Asad offering to resume the negotiations with Syria.

BARAK AND BIBI: TALK, BUT DON'T SIGN ANYTHING

¶6. (C) Opposition Leader Netanyahu launched his bid to succeed Olmert and to compete with Livni and Barak on October 27 in the Knesset, where he chastised recent governments (Barak, Sharon, Olmert) for making "unilateral concessions" and achieving nothing in return. He warned of the dire impact of further withdrawals (from the West Bank) and the division of Jerusalem, and pointedly asked Shas and Yisrael Beiteinu why they served in Olmert's coalition: "Do you really agree with a policy that would have Hamas rule over neighborhoods in Jerusalem? Do you really agree with a policy that would have them sitting on the hilltops (of the West Bank) overlooking (Israeli towns of) Kfar Saba, Ra'anana and Tel Aviv?" In contrast, Netanyahu outlined the principles of his vision for the way ahead: 1) defensible borders; 2) a united Jerusalem; 3) Israeli sovereignty over holy sites; 4) cooperation with Egypt and Jordan over final status questions; 5) complete dismantlement of terror infrastructure and 6) resolving the refugee issue by dismantling refugee camps and rehabilitating their inhabitants -- without bringing a single refugee to Israel. Netanyahu has stated that he would not be bound by any

political decisions or agreements regarding negotiations undertaken by Olmert's transitional government, a view that even some (unnamed) members of Olmert's government may also share.

¶7. (C) Barak, who is not a member of the Knesset and faces bleak polling numbers, has jumped on Peres' bandwagon with the idea of engaging on the basis of the Arab peace initiative as a vehicle that would allow him to reassert the Labor Party's importance in peace negotiations. On October 29, Barak told Israel Radio that the transitional government could continue to engage and to make progress in negotiations, but that "no foreign policy decisions can be made." That said, he agreed, in one respect, with Olmert, on the need to continue efforts to free Gilad Shalit, which would entail the release of hundreds of Palestinian prisoners, many of them convicted of killing Israelis. "There are no restrictions on the government, and if tough decisions are required on his matter, they must be made, and Gilad Shalit must be brought home even before a new government is formed."

COMMENT: SOME STABILITY IN THE MIDST OF CHANGE

¶8. (C) There is a consensus that while Israeli law is not explicit about limitations on the powers of a transitional government, such a government still must govern. Gilead Sher, who was then-PM Barak's chief of staff during a similar period in late 2000, summarized what many pundits, legal advisors and diplomats have said about such transitions: Olmert's government is empowered to pursue its policies, consistent with coalition guidelines (and, in Olmert's case, Annapolis), but must stop short of obtaining or signing an agreement with the Palestinians as that would fall beyond the mandate of a transitional government. "It is not a matter of law, but of legitimacy," Sher concluded. Former Ambassador to the U.S. David Ivry told the Ambassador that he anticipated that PM Olmert will be as active as he can during the months ahead, but lacks the legitimacy and clout to make an agreement with either the Palestinians or the Syrians. An unnamed senior GOI minister quoted on Israeli radio October 31 commented that Olmert lacks the authority on his own to restart negotiations with Syria and must bring the issue to the security cabinet for discussion before sending any messages to Damascus.

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